

PATENT

Atty Docket No.: 200300594-1
App. Ser. No.: 10/666,577

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the claim amendments and following remarks. Claims 2-3, 5, 22, 36-39, and 42 have been canceled without prejudice or disclaimer of the subject matter contained therein. Claims 1, 4, 6-21, 23-35, 40, 41, and 43-45 remain pending, of which claims 1, 20 and 40 are independent.

Claim 1 was rejected under 35 U.S.C. §101 as allegedly being directed to nonstatutory subject matter.

Claims 1-4, 6-9, 11-21, 23-35, 40, 41, and 43-45 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Hoshino (5,983,241).

Claim 5 was rejected under U.S.C. §103(a) as allegedly being unpatentable over Hoshino et al. in view of Kellams et al. (5,854,749).

Claim 10 was rejected under U.S.C. §103(a) as allegedly being unpatentable over Kauffman et al. in view of Sedlar (US20050091287).

The above objection and rejections are respectfully traversed for at least the following reasons.

Claim Rejection Under 35 U.S.C. §101

Claim 1 has been amended to include all limitations found in its dependent Claim 5, which is now canceled. Thus, Claim 1 is previously-presented Claim 5 written in independent form. Because Claim 5 was not rejected under 35 U.S.C. §101, it is respectfully submitted that amended Claim 1 also satisfies the requirements under 35 U.S.C. §101.

Withdrawal of this rejection is therefore respectfully requested.

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Claim Rejection Under 35 U.S.C. §102(b)

The test for determining if a reference anticipates a claim, for purposes of a rejection under 35 U.S.C. § 102, is whether the reference discloses all the elements of the claimed combination, or the mechanical equivalents thereof functioning in substantially the same way to produce substantially the same results. As noted by the Court of Appeals for the Federal Circuit in *Lindemann Maschinenfabrick GmbH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984), in evaluating the sufficiency of an anticipation rejection under 35 U.S.C. § 102, the Court stated:

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Therefore, if the cited reference does not disclose each and every element of the claimed invention, then the cited reference fails to anticipate the claimed invention and, thus, the claimed invention is distinguishable over the cited reference.

Claims 1, 4, 6-9, 11-21, 23-35, 40, 41, and 43-45 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Hoshino (5,983,241).

The Office Action rejected Claims 1-4, 6-9, 11-21, 23-35, 40, 41, and 43-45 by initially citing to Kauffman et al. (6,260,040), a previously-cited reference. Yet, the actual rejection language makes reference to Hoshino. Thus, it is assumed that Hoshino was used as the main anticipating reference.

Claims 1, 4, 6-9, 11-19

The rejection of these claims is moot in view of the incorporation of Claim 5 into Claim 1.

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Claims 20, 21, 23-35, 40, 41, and 43-45

The Office Action states on page 6 that for Claims 20, 21, 23-35, 40, 41, and 43-45, "examiner maintains such claims can be rejected on a similar basis to the above claim rejections."

It is respectfully submitted that Claims 20, 21, 23-35, 40, 41, and 43-45 are directed to different subject matters than Claims 1, 4, 6-9, 10-19. Thus, it is not clear how Claims 20, 21, 23-35, 40, 41, and 43-45 may be rejected by Hoshino. It is respectfully submitted that the PTO cannot expect the undersigned and applicants to delve into the examiner's psyche and thought process and venture guesses as to what elements in Hoshino allegedly anticipate those elements recited in Claims 20, 21, 23-35, 40, 41, 43-45.

Because the examiner fails to establish a *prima facie* case of anticipation against Claims 20, 21, 23-35, 40, 41, 43-45, it is respectfully submitted that these claims are allowable over the references of record. Therefore, withdrawal of the rejection of these claims is respectfully requested.

Claim Rejection Under 35 U.S.C. §103

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in MPEP § 706.02(j):

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both

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be found in the prior art and not based on applicant's disclosure.
In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Therefore, if the above-identified criteria are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

Claim 5, now Claim 1, was rejected under U.S.C. §103(a) as allegedly being unpatentable over Hoshino in view of Kellams et al.

The Office Action alleged that part of Claim 1 is anticipated by Hoshino by citing to FIG. 1 and various sections in Hoshino that allegedly disclose the elements in Claim 1 as follows:

Claim 1	Hoshino, as cited in the Office Action
First object identifier	FIG. 1, 31a = file identifier information (col. 6, ll. 19-21)
First object/file	Not identified in the Office Action.
File system	FIG. 1, 30 = version information storage section (col. 6, ll. 13-15).
Second object identifier	FIG. 1, 31b = file identifier information (col. 5, ll. 19-21).
Second object/file	Not identified in the Office Action.
Relation identifier	FIG. 1, arrows between boxes 31a-c, 32a-c, 33a, and 33b; col. 6, ll. 20-25).

First of all, Claim 1 recites "a first object stored in the file system" and "a second object stored in the file system." In other words, the first and second objects are stored in the *same* file system. Yet, the Office Action failed to even identify what are considered to be the claimed first and second objects, much less their storage in the same file system. Indeed, Hoshino explicitly states that, "[t]he version information stored in the version information storage section 30 is stored in a version information file provided aside from the files and is

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managed, for example." (Col. 6, ll. 29-31). Thus, there is no description of what are the first and second objects/files, and where they are located.

Secondly, Claim 1 now recites that "the data model includes a tuple in a format and order comprising the first object identifier, the relation identifier, the second object identifier." The Office Action cites Kellams et al. and alleged that it would have been obvious to employ data tuples in Kellams et al. merely to adopt a data structure of the well-known Oracle database. Just because an element is well known does not mean that it would have been obvious to incorporate such an element into another device or element. For example, just because an automobile engine is well known does not mean that it would have been obvious to incorporate such an engine into a bicycle. In other words, the Office Action fails to provide a proper motivation to combine Hoshino with Kellams et al.

Because the Office Action fails to establish a prima facie case of obviousness against the amended Claim 1, it is respectfully submitted that Claims 1, 4, 6-9, and 10-19 are allowable over the references of record, and withdrawal of the rejection of these claims is respectfully requested.

Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please

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grant any required extensions of time and charge any fees due in connection with this request
to deposit account no. 08-2025.

Respectfully submitted,

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